

# CLAIMS RESOLUTION TRIBUNAL

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In re Holocaust Victim Assets Litigation  
Case No. CV96-4849

## **Certified Award**

to Claimants [REDACTED 1], [REDACTED 2] and [REDACTED 3]

### **in re Accounts of Paul Rosenthal**

Claim Numbers: 215850/AY; 219703/AY; 221096/AY

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Paul Rosenthal (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

### **Information Provided by the Claimants**

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Paul Rosenthal. Claimant [REDACTED 1] indicated that his grandfather was born in 1867 in Berlin, Germany, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that his grandparents had two children: [REDACTED] and [REDACTED]. Claimant [REDACTED 1] stated that his grandfather was a judge in a divorce court in Berlin; that he lived at Admiralstrasse, Tiergartenstrasse, and Rankestrasse 13, Berlin; and that his grandfather, who was Jewish, later converted to Christianity in order to avoid losing his job due to Nazi persecution. Claimant [REDACTED 1] further indicated that his grandfather committed suicide in 1942 after he was told that his name was on the list of Jews to be sent to the Theresienstadt concentration camp. Claimant [REDACTED 1] added that his grandmother died in 1931. In support of his claim, Claimant [REDACTED 1] submitted his birth certificate, indicating he is the son of [REDACTED] of Germany, and his father’s marriage certificate, indicating that [REDACTED] was born in Berlin, Germany to Paul Rosenthal and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 9 September 1943 in New Jersey.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Paul Rosenthal. The information submitted by Claimant [REDACTED 2] about his grandfather corresponds with the information provided by Claimant [REDACTED 1].

Claimant [REDACTED 2] indicated that he was born to [REDACTED], née [REDACTED], on 5 September 1940 in Brooklyn, New York.

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her maternal grandfather, Dr. Paul Rosenthal. Claimant [REDACTED 3] indicated that her grandfather was a district court judge, who was born in Königsberg, Prussia. The other information submitted by Claimant [REDACTED 3] corresponds with the information provided by Claimant [REDACTED 1]. Claimant [REDACTED 3] submitted her mother's birth certificate, indicating she is the daughter of Paul and [REDACTED] Rosenthal, a British certificate of naturalization, indicating that Claimant [REDACTED]'s mother is the daughter of Paul and [REDACTED] Rosenthal of Germany, and the Claimant's own birth certificate, witnessed by Paul Rosenthal, indicating that she was born to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] indicated that she was born on 21 April 1922 in Berlin.

### **Information Available in the Bank Records**

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was Dr. Paul Rosenthal. The Bank's records show that the Account Owner was a judge (*Landgerichtsrat*) and that his place of residence was Berlin, Germany. The Bank's records indicate that the Account Owner held a custody account and a demand deposit account. The custody account was closed on 8 April 1935 and the demand deposit account was closed on 10 April 1935. Both accounts were closed unknown to whom. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **The CRT's Analysis**

#### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

#### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their grandfather's name matches the published name of the Account Owner. The Claimants indicated that their grandfather was a judge in Berlin, which matches unpublished information about the Account Owner's profession and place of residence contained in the Bank's records. Claimant [REDACTED 3] indicated that her grandfather bore the title "Dr.," which also matches unpublished information about the Account Owner contained in the Bank's records. In addition, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Paul Rosenthal, and indicates that his date and place of birth were 28 October 1864 in Königsberg and that this person committed suicide in 1942, which matches the information about the Account Owner

provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

#### Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. As noted above, a person named Paul Rosenthal was included in the Yad Vashem database. The CRT also notes that while the Account Owner converted to Christianity to avoid losing his job due to Nazi persecution, the Account Owner was still considered to be Jewish by the Nazi regime as evidenced by the fact that the Account Owner's name was on a list of persons to be deported to a concentration camp. Finally, the Claimants indicated that the Account Owner committed suicide in 1942 in order to avoid Nazi persecution.

#### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and documents demonstrating that the Account Owner was their grandfather. Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted their birth certificates, indicating they are the children of [REDACTED] of Germany, and Claimant [REDACTED 1] submitted his father's marriage certificate, indicating that [REDACTED] was born in Berlin, Germany to Paul Rosenthal and [REDACTED], née [REDACTED]. Claimant [REDACTED 3] submitted her mother's, [REDACTED], née [REDACTED], birth certificate, indicating she is the daughter of Paul and [REDACTED] Rosenthal, a British certificate of naturalization, indicating that Claimant [REDACTED 3]'s mother is the daughter of Paul and [REDACTED] Rosenthal of Germany, and the Claimant [REDACTED 3]'s own birth certificate, witnessed by Paul Rosenthal, indicating that she was born to [REDACTED], née [REDACTED].

#### The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that apparently the Account Owner feared the Nazi regime prior to his suicide because his Jewish faith had been recognized by the Nazis, forcing him to convert in order to avoid losing his job; that the Account Owner would not have been able to repatriate his accounts to Germany during this period without their confiscation; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner remained in Germany until he committed suicide in 1942 (as evidenced by Yad Vashem records) after he learned that his name was on a list of Jews to be deported to a concentration camp; that the Account Owner's heirs would not have been able to obtain information about his closed accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions and given the application of Presumptions (a), (h) and (j), as provided in Article 28

of the Rules (see Appendix A) and Appendix C,<sup>1</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case the Account Owner held a demand deposit account and a custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of a demand deposit account was 2,140.00 Swiss Francs. Consequently, the total value of the demand deposit account and of the custody account was 15,140.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 189,250.00 Swiss Francs.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2] are both children of the Account Owner's son, [REDACTED] (born [REDACTED]), and Claimant [REDACTED 3] is the child of the Account Owner's daughter, [REDACTED], née [REDACTED]. Thus, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to receive one-fourth of the total award amount, and Claimant [REDACTED 3] is entitled to receive one-half of the total award amount.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

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<sup>1</sup> Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

**Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
8 April 2004